



CITY OF SUNNYVALE REPORT TO PLANNING COMMISSION

August 8, 2005

SUBJECT: Extending Approval of Wright Avenue Single Story Combining District (Study Issue)

REPORT IN BRIEF

The Single Story Combining Zoning District was created to preserve and maintain single-family neighborhoods consisting of predominately single-story homes. There are currently two neighborhoods (Wright/Edmonton Avenues and Bobolink Circle) with the Single Story Combining District designation, and they are set to expire in a few years. The City Council established this Study Issue in order to consider options available to extend the Single Story Combining District for the Wright and Edmonton Avenues neighborhood (Attachment A). The City Attorney has determined that the Sunnyvale Municipal Code, as written, does not allow the Council to amend the Wright Avenue Single Story District until the seven year sunset period has elapsed. This means the Municipal Code would need to be amended to allow changes to occur. This report offers options considered by staff and also includes options suggested by Wright Avenue property owners. Staff recommends modifying the Code to allow applications to be filed 6 months prior to the expiration date to continue the Single Story Combining District, and to reduce the fee for reapplication to one-half the fee for a new district.

BACKGROUND

In November of 2000, as a result of a study issue on addressing large sized homes, the City Council adopted changes to the Single Family Design Criteria and Development Standards found in the Zoning Code (RTC 00-387, Attachment B). As part of that study the Single Story Combining District (to be combined with R-1, R-0 and R-2 zoning districts) was created (see zoning section, Attachment C). The Single Story Combining district includes the following requirements:

- Owners of 2/3 of the properties must support the request;
- Boundaries for a district must be clearly delineated;
- District must contain at least 20 houses;
- At least 75% of homes must be one-story;
- The District sunsets after 7 years

The staff analysis and Council decision were based on the experiences of other communities in establishing single-story districts. The sunset provision was included to address a concern that the desired character for a neighborhood could change and that therefore, the single-story zoning should expire to allow the neighborhood to pro-actively address the issue.

In April 2001, the City Council considered a request to waive the rezoning application fee for the Wright Avenue area. The Council voted 4-3 to not waive the application fee. In May 2001, the Wright Avenue neighbors filed an application, with a total fee of \$2, 989. In July 2001, the Council adopted a per lot fee for Single Story and Heritage Housing combining district requests. The fee for FY 2005-2006 is \$113 per lot (\$6,102 for a 54-lot application).

In July 31, 2001 the City Council approved the first combining district zoning (RTC 01-256, Attachment D) for a 54-parcel area in the vicinity of Wright and Edmonton Avenues (referred to as the Wright Avenue area). This subdivision was originally single-story Eichler homes; however, four of the homes had added a second story and one home had been completely demolished and a new two-story home built in its place. A sixth home is single-story yet exceeds 17 feet in height due to reconstruction that occurred after a fire.

In June 2002, a second neighborhood (referred to as Bobolink Circle) received the Single Story Combining District zoning for a 25-lot area. The neighborhood paid a fee of \$1,925 (\$77 per lot).

EXISTING POLICY

The municipal code provides that Single Story Combining Districts prohibit the construction of new two-story houses or second-story additions, limit Floor Area Ratios to 45%, and limit the maximum building height to 17 feet within the boundaries of the district for a seven year period. At the end of the seven-year period, these restrictions expire unless the neighborhood files to extend the Combining District for successive seven-year periods.

Land Use and Transportation Element

C1.1 Recognize that the City is composed of residential, industrial, and commercial neighborhoods, each with its own individual character; and allow change consistent with reinforcing positive neighborhood values.

N1.1 Protect the integrity of the City's neighborhoods; whether residential, industrial, or commercial.

Community Design Sub-Element

Continue to maintain and develop zoning standards which preserve the quality of residential neighborhoods.

The Single Story Combining District has unique administrative procedures. It is the only zoning district that the City Council may **not** serve as the applicant to initiate a rezoning request.

DISCUSSION

Council considered this study issue at their workshop in December 2004. The summary sheet for the study issue indicates that extending a single story combining district before the expiration of the seven years is in conflict with the zoning code (Attachment D). The City Attorney's office has further advised that Council cannot initiate rezoning action on the property, as it also is in conflict with the current code. Several options are available to address the extension of the zoning district. They can be considered singly, or in combination.

1. Modify the zoning code to establish the combining district for longer than seven years.
2. Allow City Council to initiate rezoning of the Single Story Combining District (thereby eliminating the application fee to property owners).
3. Modify the zoning code to eliminate the sunset provisions of the combining district.
4. Modify the zoning code to clarify when applications for a new seven-year period can be filed.
5. Reduce the fee for applications to reinstate single story zoning in an area.
6. Eliminate the fee for applications to reinstate the single story zoning in an area.

If the Council wishes to pursue changes in the code or procedures, it would affect all single story combining districts and not just the Wright Avenue area.

1. *Establish the Combining District for longer than seven years.*

This option would apply to all new applications for single-story combining district. The Wright Avenue and Bobolink Circle neighborhoods would not be affected by this option as they were adopted at a time when the ordinances clearly stated that the combining district would expire at seven years.

2. *Eliminate the sunset provisions of the Combining District.*

If a neighborhood no longer wishes to retain a single-story designation, the same procedures would apply as in establishing the designation, which is to require owners of at least 67% of the properties to make the

application. As in the previous option, this option would not apply to either the Wright Avenue or Bobolink Circle areas until after a renewal occurred.

3. *Allow City Council to initiate renewal of the zoning of the Combining District.*

This option would allow the Council to initiate an application for rezoning (to continue a previously approved single-story combining district) without approval of owners of 67% of the properties. This option is similar to the original request for this study. The code would allow the Council to make an application upon expiration of the zoning; for the Wright Avenue area the zoning will expire on August 29, 2008. This option could also allow the Council to cancel the zoning without the approval of 67% of the neighbors.

4. *Clarify when applications for a new seven-year period can be filed.*

This option would modify the zoning code provision that states, "After expiration of the combining district, a new application, following the same procedures as the original one, may be filed" (Attachment B). Although a strict interpretation suggests that there could be a gap of time between expiration and renewal, staff would allow re-applications to be processed in a manner that would consider the extension of the zoning close to the expiration date (to allow for a seamless condition of the zoning). To clarify, the code could be modified to state that for a period of time prior to the expiration date, applications may be accepted. A 3-4 month time period is typically sufficient to process an application. Up to six months is a reasonable time period to allow for unforeseen delays in the processing.

This option would allow for "seamless" zoning of an area, and still provide owners a reminder of the extra restrictions. It would also give the neighborhood an opportunity to examine if these extra restrictions are still desirable.

5. *Reduce the Fee for Combining District Extensions*

This option would decrease the costs to owners, which could be a burden on some residents and neighborhoods. If some of the owners are the same as during the original request, less staff time is needed to explain the zoning, the restrictions and other provisions of the code. Turnover is difficult to predict, however staff estimates that at least half of the owners would remain in a seven year period.

6. *Eliminate the Fee for Combining District Extensions*

This option would decrease the costs to owners and would relieve the financial burden on some residents and neighborhoods. If most of the

owners have not changed from the initial zoning of the area, there is less staff time to explain the zoning, the restrictions and other provisions of the code. Staff had initially estimated that as many as one rezoning a year would take place. To date only two neighborhoods have applied for the single-story designation. The current fee may be a deterrent to some neighborhoods making application; however, based on conversations with some residents, staff believes that the one-story restriction is not desirable to a majority of the owners in many other single-family neighborhoods. Under FY 2005-2006 fees, a 54-lot area would be required to pay \$6,102; a 25-lot area would be \$2,825. Application fees generally cover the costs of the Community Development Department to process planning and building applications. Elimination of the fee would require that the General Fund cover the costs to create or extend a Single Story Combining District.

FISCAL IMPACT

If Council modifies the time limits on the zoning code there would not be any fiscal impact. If Council modifies the fees for a combining district, the impacts would vary based on the size of the application (number of lots) and would depend on the fee amount set by City Council. The general practice is for cost recovery for building and planning permit services. This study is being funded through the Community Planning budget, a general fund program.

CONCLUSION

City laws will not allow an extension of the combining district for the Wright Avenue area as originally intended. Therefore, this study investigates options, including changes to the code that affect the length of time that a combining district is active or changes to the fees associated with applications for single story combining districts.

PUBLIC CONTACT

Staff held a community information meeting on July 21, 2005. Property owners in the Wright Avenue and the Bobolink Circle area were mailed notices and the community at large was also invited through a display ad in *The Sun*. Eight people attended the meeting, all except one from the Wright Avenue neighborhood. The attendees seemed to understand that the current code does not allow the zoning to be extended, except through application by owners. Further, they understand that any changes to the length of time for the district would not apply to the existing single-story combining district areas until after the current seven year period expires.

Generally, the Wright Avenue owners preferred two main changes: First to eliminate the sunset provision once the existing district expires, and second, to allow the owners to file a new application 1 year before the expiration of the 7 year term in order to allow adequate processing time. The property owners also

indicated an interest in requiring approval of 51% of the owners rather than the current 67% requirement. A letter from Dr. Gaugler and Duane Barber from the Wright Avenue neighborhood are Attachment E.

No Bobolink Circle residents attended the meeting.

ALTERNATIVES

1. Modify the zoning code to establish the combining district for longer than seven years.
2. Modify the zoning code to eliminate the sunset provisions of the combining district.
3. Allow City Council to initiate rezoning of the Combining District.
4. Modify the zoning code to allow applications for a new seven-year period to be filed prior to the expiration of the zoning.
5. Reduce the fee for applications to reinstate single story zoning in an area.
6. Eliminate the fee for applications to reinstate the single story zoning in an area.
7. Reduce the required approval from the current 67% of the owners to 51%.

RECOMMENDATION

Staff recommends Alternatives 4 and 5: allow applications to be filed up to six months prior to expiration and reduce the fee for applications to reinstate the expiring combining district to \$3,051 (one-half the current fee). When the City Council established the single story combining district there was a preference to establish the single story district for a limited time to allow the neighborhood an opportunity to reaffirm their desire for this additional restriction. The single-story district is an expression of neighborhood character with more restrictions than other areas with the same zoning. Because of these restrictions, it was found that the application should be filed by the owners to serve as a guide to the Council of the desire for the limitation.

The neighbors recommend that the sunset provision be eliminated once the existing district expires, and to allow the owners to file a new application 1 year before the expiration of the 7 year term in order to allow adequate processing time. Staff is concerned that eliminating the sunset provision would inhibit future property owners to pursue the elimination of the district if desired. Also, the length requested to process the continuation of a request for renewal of the district varies between staff and the neighbors. Staff feels either option would be workable. Staff does not, however, recommend reducing the required approval from the property owners from 67% to 51% because a simple majority of support is too minimal for a restriction as significant as the Single Story District.

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Attachments

- A. Study Issue Paper
- B. Original Single Story RTC
- C. Single Story Combining District (from Title 19)
- D. Wright Avenue Rezoning Report
- E. Memo from Joan Borger, Interim City Attorney, dated April 18, 2005
- F. Letters from Interested Parties
 - E-mail from Dr. William M. Gaugler dated 7/21/05
 - Letter from Duane Barber dated 7/21/05
 - E-mail with attachments from Lou Wirtz dated 7/22/05